THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 19834 of 1999

Dated: 03-08-2005

Between:

Raja Pullaiah, S/o Pandurangaiah,
H.No. 1-65/3, Raghavendranagar Colony, Uppal 'X' Roads, Opp APSEB Office, Hyd.

..... PETITIONER

AND

1 The Addl.Industrial Tribunal cum Addl. Labour Court, rep by its Chairman, I.Floor, Chandravihar, M.J.Road, Hyd.
2 The Depot manager, APSRTC, Hakeempet, Secunderabad.

.....RESPONDENTS

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.NO. 19834 OF 1999

ORDER:

This writ petition is filed by the workman being aggrieved by the Award passed by the Additional Industrial Tribunal-cum-Additional Labour Court at Hyderabad, in I.D.No.92 of 1996 dated 17-2-1999.

According to the petitioner, he was appointed as Conductor in APSRTC in the year 1984. Since then he has been discharging his duties to the utmost satisfaction of his superiors. While so, when he was conducting bus bearing No.9219 on the route No.211/DMC, a check was exercised on 2-7-1992 at DMC gate i.e. stage No.13. The Checking Officials found certain cash and ticket irregularities and on the basis of the report submitted by the checking officials, a charge sheet was issued on 7-7-1992 alleging that the petitioner failed to collect fare and issue tickets to two passengers who boarded the bus at Children's park i.e. stage No.12 and bound for stage No.14 and the petitioner has closed the tray numbers for the denominations of Rs.2-00, Rs.2-50ps with incorrect numbers and issued tickets which were irregularly punched and the same was done with an intention to reissue tickets after collecting them from the passengers. The petitioner submitted a detailed explanation denying the charges. However, the management

got a farce of an enquiry conducted in total violation of principles of natural justice and thereafter removed the petitioner from the service by its proceedings dated 17-9-1992. Having no other option, the petitioner raised industrial dispute before the Additional Industrial Tribunal-cum-Additional Labour Court, at Hyderabad, and filed a petition under Section 2 A (2) of the Industrial Disputes Act. Though the labour court found that the charge No.1 was not proved, as regard to other charges which are interconnected held to be proved. The labour court did not consider the aspect that there were 81 passengers at the time of check and the bus was overloaded and in spite of heavy rush, the petitioner issued tickets to all the passengers in the bus. There was some mistake in punching of tickets and writing serial numbers of the tickets in the S.R. which had occurred solely due to rush and confusion. Therefore, the finding of the labour court that it was done intentionally was uncalled for and there was no loss caused to the Corporation and as such the Award passed by the labour court is arbitrary and illegal and is liable to be set-aside.

Though, no counter is filed, the learned counsel for the respondent strenuously contended that the labour court has rightly came to the conclusion that the intention of the petitioner was bad, but for the check the petitioner could have misused those tickets by reissuing them in the next journey. Therefore, even if there is no serious past misconduct to the credit of the petitioner, that does not absolve the petitioner from the present charges, the present charge itself is serious one and the labour court has not committed any error requiring interference by this court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the Additional Industrial Tribunal-cum- Additional labour court and other material made available on record.

At the out set, I am of the opinion that the finding of the labour court that the petitioner was guilty of the charges cannot be said to be either arbitrary or illegal. But I am of the view, that the labour court has definitely committed an error in exercising its discretionary powers vested under Section 11 A of the Industrial Disputes Act and in so far as not granting any relief. In the absence of past misconduct, removal from service was disproportionate. Further, the petitioner was appointed as Conductor in the year 1984 and he was removed from service on 17-9-1992. Thus he had put in about eight years clean service which is not disputed. When this court adjourned the

matter more than thrice, asking the management to produce any evidence as to past conduct, they were not able to place the record before this court.

In view of the same, the award passed by the labour court is set-aside and in the result, the respondent/management is directed to reinstate the petitioner with continuity of service but without any back wages and without any attendant benefits and further the service between 17-9-1992 till the date of reinstatement shall not be treated for the purpose of seniority, attendant benefits etc. except for the retiral benefits.

The writ petition is, accordingly, disposed of. No order as to costs.

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C.V.RAMULU,J

03-08-2005

Stp